

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

**Gerald Colpitts, as Personal  
Representative of the Estate of  
Bernadette Muratore,**

**Plaintiff,**

**v.**

**NHC Healthcare Clinton, LLC,**

**Defendants.**

**Case No.: 6:20-cv-04065-JD**

**PLAINTIFF'S MOTION FOR LEAVE OF  
COURT TO FILE SUR-REPLY IN  
OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS AND  
SUPPLEMENTAL REPLIES**

Plaintiff respectfully moves this Court for leave to submit a sur-reply in opposition to Defendant's Motion to Dismiss (ECF No. 2).

Plaintiff and Defendants have submitted briefs to the Court regarding the issues raised in Defendant's Motion to Dismiss. Specifically, and following the closing of briefing, Defendants filed two supplemental replies to Plaintiff's Response to the Motion to Dismiss (ECF No. 18 and 23). Plaintiff does not believe these supplemental replies are proper pursuant to Local Civil Rule 7.07 and respectfully request leave of Court to file a sur-reply to address the issues Defendants raise for the first time in their supplemental replies.

Plaintiff believes that additional briefing regarding HHS Advisory Opinion 21-01, the United States' "Statement of Interest" in *Bolton*, and the rulings in several opinions that have been entered since initial briefing would be helpful to the Court in ruling on Defendant's Motion to Dismiss. These authorities were not available when the matter was initially briefed by the parties, and Plaintiff seeks opportunity to address new arguments put forth by Defendants for the first time in supplemental briefings that did not allow Plaintiff opportunity to address the same.

**CONCLUSION**

For the foregoing reasons, Plaintiff respectfully request leave of this Court to file a supplemental brief regarding HHS Advisory Opinion 21-01, the United States' "Statement of Interest" in *Bolton*, and the rulings in several opinions that have been entered since initial briefing within seven days from the granting of this Motion or at such other time as is ordered by the Court.

Respectfully Submitted,

CAVANAUGH & THICKENS, LLC

*s/ J. Eric Cavanaugh*

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February 24, 2021